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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/571,874

04/11/2006

Johannes Jung

3602-PAT

6886

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02/19/2008

DONN K. HARMS

PATENT & TRADEMARK LAW CENTER

SUITE 100

12702 VIA CORTINA

DEL MAR, CA 92014

EXAMINER

GANESAN, SUBA

ART UNIT

PAPER NUMBER

3774

MAIL DATE

DELIVERY MODE

02/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/571,874 | Applicant(s) JUNG, JOHANNES | |
| | Examiner SUBA GANESAN | Art Unit 3774 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/23/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims **10-12** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 10-12 have not been further treated on the merits.

Response to Arguments

1. Applicant's arguments with respect to claims 1-5 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1-2, 4-5, 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (U.S. Pat. No.: 6,270,524) in view of Davila et al. (Pub. No.: US 2002/0143386).

4. Kim discloses a stent with a tubular wall comprised of annular segments 14 connected to one another by means of connecting segments 22 comprising elements 20 with an elastic structure (examiner considers elements 20 to have an elastic structure because they are designed to compress and expand). An annular segment 14

in a terminal region of the stent is directly connected (without connecting segments 22) to an adjacent annular segment (see element 28, fig. 3A). The stent elements are v-shaped.

5. Kim fails to show a curved anchoring element that curves radially outwardly and bridges at least one wall element with a radiopaque region on the curved tip. Davila teaches the use of a curved anchoring element 108A (fig. 7) with a radiopaque tip (804) that flares outwardly and bridges at least one wall element (see fig. 7) in a stent with annular segments resulting in a stent end that anchors at a target location. The anchoring element bridges at least two wall elements. The anchor element is v-shaped. The stent has at least three anchoring elements. The stent further has radiopaque regions on the opposite tube ends (fig. 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the flexible stent as disclosed by Kim with the curved anchoring element and radiopaque tip as taught by Davilla to increase the anchoring of the stent ends and further provide an indication of stent expansion via the radiopaque markers.

6. Claim **3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (U.S. Pat. No.: 6,270,524) in view of Davila et al. (Pub. No.: US 2002/0143386) as applied above, and further in view of Fischell et al. (Pub. No.: US 20020058988).

7. Kim in view of Davilla is explained supra. However, the combination lacks an anchoring element with larger thickness than the wall elements. Fischell teaches larger end thicknesses (figs. 8 and 10) in an expandable stent for enhanced visibility (para 17). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to have provided the flexible stent of Kim and Davilla with anchoring elements with greater thicknesses for the purpose of increasing the strength of the anchoring elements.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUBA GANESAN whose telephone number is (571)272-3243. The examiner can normally be reached on M-F 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./

Examiner, Art Unit 3774

/William H. Matthews/

Primary Examiner, Art Unit 3774